



February 11, 2019

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *In re Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. §160(c) to Accelerate Investment in Broadband and Next-Generation Networks* (WC Docket No. 18-141)

Dear Ms. Dortch:

Patrick Halley and Diane Holland of USTelecom and Katharine Saunders, Curtis Groves, and Fred Moacidieh of Verizon met Thursday, February 7, with Nirali Patel, Wireline Advisor to Chairman Pai, to discuss USTelecom's forbearance petition.

We share the Commission's commitment to ensuring that affordable broadband service is available to all Americans. But as we discussed, outdated regulations from the Telecommunications Act of 1996 do not always advance that goal. To the contrary, mandatory unbundling at regulated rates when competition is thriving distorts incentives.

The record demonstrates that the overwhelming majority of unbundled network elements in today's marketplace are used to serve business customers.¹ The record also shows that the vast majority of those customers are located in areas the Commission has already determined (in the *Business Data Services Order*²) are competitive.³ The Commission's prior finding does not depend on the existence of UNEs. And thus, where UNEs no longer are needed to protect consumers or competition, the Act requires the Commission to forbear.⁴

¹ See Petition for Forbearance of USTelecom – the Broadband Association, WC Docket No. 18-141, at 27-28 (May 4, 2018); Comments of Verizon, WC Docket No. 18-141, at 19 (Aug. 6, 2018).

² *Business Data Services in an Internet Protocol Environment, et al.*, Report and Order, 32 FCC Rcd 3459, 3462 ¶ 4 (2017).

³ See Reply Comments of Verizon, WC Docket No. 18-141, at 4 (Sep. 5, 2018); Comments of AT&T, WC Docket No. 18-141, at 17 (Sep. 5, 2018).

⁴ Telecommunication Act of 1996, 47 U.S.C. § 160(a).

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Forbearance does not mean removing broadband facilities, nor will it cause retail customers in underserved areas to lose broadband service. Following grant of the petition, our members' wholesale customers will continue to be able to purchase wholesale inputs they need to provide retail service through commercial agreements or other arrangements. Indeed, we understand that some members are already discussing those commercial arrangements with their customers, since members will continue to have incentives to sell those wholesale inputs to their wholesale customers even after forbearance.

This move to a more open and reasonable market will not happen overnight. USTelecom has committed to a transition that would keep existing UNEs in place until February 4, 2021—nearly three years after filing this petition and almost 25 years to the day President Clinton signed into law the Telecommunications Act of 1996. In that intervening quarter century, massive changes to the telecommunications landscape have made UNEs obsolete.

We look forward to continued cooperation with the Commission as it modernizes its regulations to narrow the digital divide and support broadband deployment.

Sincerely,

/s/ Patrick Halley

Patrick Halley
Senior Vice President, Advocacy and
Regulatory Affairs